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ABSTRACT

The report examines the problems and promises of the new federal education laws for the handicapped (Section 504 of the Rehabilitation Act of 1973 and P.L. 94-142, the Education for All Handicapped Children Act) as implemented in New York state. An introductory section explains the tenets of the laws, including requirements for program accessibility of Section 504 and individualized education programs of P.L. 94-142. The section on implementation includes a comparison of New York's and Louisiana's state plans, a brief consideration of implications for parochial schools, and a description of compliance reviews by the Bureau of Education for the Handicapped. A section entitled "The Reality Factor" surveys such aspects as attitudinal barriers, teachers' unions responses, and inservice and preservice teacher education. A proposal for an outreach program for parents of secondary school handicapped children is included. Among five appendixes is an outline of evaluation, placement, and due process procedures under P.L. 94-142 and Section 504. (CL)

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A STUDY/REPORT FOR EMPIRE STATE COLLEGE
AND THE EDUCATION PROJECT OF
THE NEW YORK CITY MAYOR'S OFFICE FOR THE HANDICAPPED

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U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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THE NEW FEDERAL EDUCATION LAWS FOR HANDICAPPED CHILDREN
Promise, Programs, Problems

by

MOLLIE SHAW

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MAYOR'S OFFICE FOR THE HANDICAPPED - October 1978

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TABLE OF CONTENTS

Page

LETTER FROM DR. EDMUND M. HORAN..... ii
Project Director, Centers for
Multiple-Handicapped Children

FOREWORD BY LARRY L. ALLISON..... iv
Deputy Director, New York City
Mayor's Office for the Handicapped

PREFACE..... v

I. INTRODUCTION..... 1

Legislation to Insure the Education of
All Handicapped Children
Obstacles to Successful Implementation
Specific Purposes of This Report
Methods of Research

II. THE NEW FEDERAL EDUCATION LAWS..... 12

Section 504 Regulation by HEW
Definition
Education
Program Accessibility
General Employment Provisions
Complaints
The Education For All Handicapped
Children Act--P. L. 94-142
Statement of Findings and Purposes
of the Act
Financial Formula
Beneficiaries and Counting Limitations
Management and Administration
Blueprint for Change--Highlights of
P. L. 94-142

III. IMPLEMENTATION..... 22

Setting National Minimum Standards
Intent of the Laws
Funds
Comparison Between Louisiana's and
New York's State Plans
Parochial Schools
From Old Saybrook, Conn.: "Living With
P. L. 94-142"
Compliance Reviews by BEH

Page

IV. THE REALITY FACTOR..... 33

Attitudinal Barriers
Teachers and Their Unions
Teacher Education--In-Service and Pre-Service

V. CONCLUSION..... 43

Parents
Proposal for "Pilot Project To Reach Out To Parents of Children With Handicapping Conditions in Secondary Schools"

APPENDIX A: Evaluation, Placement and Due Process Under P. L. 94-142 and Section 504 50

APPENDIX B: Glossary..... 52

APPENDIX C: NYC Board of Education IEP and Short Term Objectives--Update..... 54

APPENDIX D: Sample Questionnaire..... 57

APPENDIX E: Abstract for Competitive Grant Proposal Submitted by NYC Board of Education - High School Division..... 58

BIBLIOGRAPHY..... 62

"People, Places and Events"

BOARD OF EDUCATION OF THE CITY OF NEW YORK
DIVISION OF SPECIAL EDUCATION & PUPIL PERSONNEL SERVICES
BUREAU FOR CHILDREN WITH RETARDED MENTAL DEVELOPMENT
CENTER FOR MULTIPLE-HANDICAPPED CHILDREN
EDMUND M. HORAN, Ed.D. - Project Director

October 30, 1978

Mr. Julius A. Shaw, Director
Mayor's Office for the
Handicapped
250 Broadway
New York, N. Y. 10007

Dear Mr. Shaw:

On that autumn day in 1972, the evening sky looked heavy and overcast as you looked through the window toward the Brooklyn Bridge and let your attention drift for a moment from the meeting to watch the cars turn the curve approaching the bridge and drive across the East River to Brooklyn. This was my first formal meeting with a group of people who were, in retrospect, the path-finders in the establishment of a city agency which has become a voice for people with handicaps in New York City --The Mayor's Office for the Handicapped.

Earlier that same year members of this group had spent their time and energy in assisting the parents of the students in the Center for Multiple-Handicapped Children in their fight to keep the doors of the Center from being closed during the initial shock waves of budgetary crises that have since troubled this city. They and the parents became not only the voice of the handicapped but also the conscience of the city and the Center for Multiple Handicapped Children was not closed. In fact, since that time other Centers for these children have been established in Queens, Brooklyn and the Bronx.

But I particularly remember that autumn meeting in 1972 because it stands as a watershed in developing the ideas that have since become realities. It set in motion a plan to make college campuses and, by extension, public schools accessible and barrier-free. As a result of that meeting, a group of educators sat down in wheelchairs in 1973 and maneuvered their chairs about a college campus to experience, firsthand, the difficulties encountered by students with handicaps as they attempted to move their

chairs through doors and up and off street curbs. It was, indeed, a learning experience for these educators. That meeting also brought together a committee to prepare a Bill of Rights on Education for the Handicapped. It was my honor to be chairman of that committee.

The Preamble of the Bill of Rights on Education for the Handicapped prepared in 1973 for the Mayor's Office for the Handicapped incorporated the concept that "Education is an inviolable right of all citizens which our society has come to honor and must preserve. Education for the handicapped involves those persons who deviate from what is supposed to be average in physical, mental, emotional, or social characteristics. The very nature of our complex technological society maintains that every individual must receive some form of training or retraining which will enable him to become a productive, self-sustaining and contributing member of society. This fact, however, does not and must not exclude the pursuit of knowledge for the sake of personal enrichment as being the right of the individual." The concept that education is an inviolable right of <u>all</u> citizens is the cornerstone of recent federal education laws and the Mayor's Office for the Handicapped has been in the forefront in documenting, emphasizing, and explaining this right for children and adults with handicaps.

Two of the people at that autumn meeting in 1972 went on to become the first Directors of the Mayor's Office for the Handicapped--Mrs. Eunice Ficrito and Mr. Julius A. Shaw, the present Director. With leadership of the quality possessed by these people, it is no wonder that so much has been accomplished in such a relatively short period of time. To help us all better understand the recent legislation on education for the handicapped, Mrs. Mollie Shaw has prepared a most informative and readable report entitled "The New Federal Education Laws For Handicapped Children--Promise, Programs, Problems." May the promises be kept, may the programs be carried out, and may the problems be turned into challenges.

With every best wish,

Dr. Edmund M. Horan, Project Director
Centers for Multiple-Handicapped Children

FOREWORD

The story is told of a traveler in a distant time who encountered three stone cutters busy at work chipping on three pieces of granite beside a busy byway. "What are you doing?" he asked the first. "Why, I'm cutting a stone," replied the man. He asked the second the same question. "I'm building a wall," was the reply. He approached the third and asked again. "Why," said the man, "I'm building a Cathedral!"

All of the players in the present unfolding drama called 94-142 and 504 fit into one of the above categories of "stone cutter." Their perceptions of the task at hand and their roles and responsibilities towards successful completion of the task will, in the long run, spell the difference between Success and Failure in communities throughout the nation.

The stakes in this bold new venture are agonizingly high. The future of eight million children presents a tantalizing objective that many wish would simply go away. Happily, however, the days of extending rights when convenient, as George Will so aptly puts it, are over. The building process before us as a nation and as a people has as a main byproduct the reversal of five thousand years of historical attitudes toward handicapped people. But each of us has to first ascertain whether we are building Cathedrals or simply cutting stone.

Larry L. Allison
Mayor's Office for the Handicapped
October 30, 1978

PREFACE

The Congress of the United States has enacted legislation which, if successfully implemented, will assist handicapped people into the mainstream of society for the first time in history. Section 504 of the Rehabilitation Act of 1973 and Public Law 94-142 assure all handicapped children a free appropriate public education in order for each to lead the productive life for which he or she may be qualified.

While researching how implementation and enforcement were proceeding in the field of education, I attended events, visited places and formally interviewed people. These "People, Places And Events" are enumerated in the Bibliography. Many, many others willingly contributed their knowledge, and freely discussed their plans, present practices, problems and even prejudices. People from:

Schools

The Principals, administrative staffs, faculties and Parents' Associations of John F. Kennedy High School, Bronx (whose Principal, in 1978, was named Educator of the Year by the Bronx Organization of Learning Disabled - BOLD); Louis D. Brandeis High School, Manhattan; Susan Wagner High School, Staten Island.

Organizations of Parents of Handicapped Children

Epilepsy Service Organization (EPSOC), United Cerebral Palsy (UCP), Association of Children with Retarded Mental Development (ACRMD), New York Association of Brain Injured Children (NYABIC), and Parents of Language and Hearing Impaired Children

Organizations of People with Handicapping Conditions

Many people with different kinds and degrees of handicapping conditions described their own educations in institutions and/or general or special education classes in public, private and parochial schools, including members of the following organizations: Disabled in Action (DIA); American Coalition of Citizens with Disabilities (ACCD); Multiple Sclerosis Service Organizations (MSSO); The HOWE Society, New York City Chapter of the New York State Council of the Blind, American Council of the Blind; and The New York City Council of Organizations Serving the Deaf (NYCCOSD).

Mollie Shaw
New York City
October 1978

I. INTRODUCTION

"No otherwise qualified handicapped individual in the United States...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

- THE UNITED STATES CONGRESS: SECTION 504 OF THE REHABILITATION ACT OF 1973. P.L. 93-112

"It is the purpose of this Act to assure that all handicapped children have available to them...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children."

- THE UNITED STATES CONGRESS: THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975. P.L. 94-142

Legislation to Insure the Education of ALL Handicapped Children

The first Regulations for Section 504 of the Rehabilitation Act of 1973 - the Civil Rights Act for handicapped people - were completed by the Department of Health, Education and Welfare, and signed by Secretary Joseph Califano in April 1977. Included are the mandated practices and procedures for non-discrimination in educational establishments receiving Federal financial assistance.

P.L. 94-142 is the complete revision of Part B of the Education of the Handicapped Act (P.L. 93-380).[1]

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[1]The other components of the EHA remain in effect.

It establishes an entirely new formula for financial assistance for the education of all handicapped children in public elementary and secondary schools. It is a comprehensive law carrying restrictions and procedures to be met for the money. The definition of handicapped children is very broad and includes mental, perceptual, physical or emotional handicaps, no matter how severe or mild.

Compliance with P.L. 94-142 is voluntary by the State. However, since the writing of the educational mandates of Section 504--affording no financial aid--was so closely coordinated with P.L. 94-142--which supplies additional funding--no State has refused participation.

Beginning in 1972, the writing of P.L. 94-142 took four years to complete. It was enacted in 1975, effective October 1, 1977. By September 1978, the first payments will have been in effect for one year to those State and Local Education Agencies whose plans were approved by the Bureau for the Education of the Handicapped (BEH), which administers the funds through the Aid to States Branch.

Both Section 504 and P.L. 94-142 are truly landmark laws. They make a complete break with past traditions, mores and practices and presage a new role in society for handicapped people. An understanding of the intent, mandates, and the implementation of the new legislation is of importance for all Americans, whether or not they are themselves handicapped.

The social implications of this legislation are of such vast proportions that they will alter the lives of every one of us because throughout humankind's recorded history, we have all been taught and have all learned to exclude handicapped people from our consciousnesses and consciences as participants in the mainstream of life. The ratio has been: the degree of isolation to the quantity and/or quality of degree of difference. The severity of the exculusionary techniques used have depended upon the harshness or ease of the geography and culture.

This exclusion in our own times is immediately revealed by the low visibility, in all aspects of life, of the more than 35 million Americans President Carter said are handicapped.[1]

In our own times, the first building blocks of this attitudinal barrier are laid by parents as they seize the hand of their curious tot who is observing with interest a person in a wheelchair. As the child is pulled out of range of the handicapped person, he or she is admonished: "Don't stare. That's not nice." Thus the separation begins. Our present day philosophies and religions which assign either guilt or martyrdom to handicapped people, our architecture and inaccessible transportation facilities, our literature and drama which reinforce the stigmatized stereotype of handicapped people, added to the segregated education of handicapped and non-handicapped children, complete the erection of the attitudinal and architectural barriers which divide us.

The new legislation prescribes complex and detailed procedures to eradicate these barriers so that handicapped people will be able to lead "proud and productive lives, despite their disabilities."[2] By avoiding the current waste in human lives, talent and potential, the ultimate cost effectiveness of having many millions more people who will be tax payers and not tax consumers will be measurably valuable. As a consequence of its being enacted, the new legislation has already brought with it some awareness of the advantages to be accrued in both humane and financial considerations. It will only be through the effective implementation and enforcement of these laws that success will be realized.

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[1] In his address to the White House Conference on Handicapped Individuals, 1977.

[2] From statement by Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare on April 28, 1977.

Obstacles to Successful Implementation

In addition to the natural resistance to change of ANY kind, and the monumental attitudinal barriers which exist in every facet of our society, some of the obstacles to success must rest with ambiguities in the legislation itself, or as a result of the fact that those who write the Regulations in Washington, D. C. are often far removed from the nitty-gritty realities of compliance at home.

Another component of the new laws is the added responsibilities given to parents of handicapped children to act as their children's advocates, whether or not the parents are ready to overcome their own fears with regard to their children's handicapping conditions. Nevertheless, the laws require that parents be active and participating members of their children's educational teams.

Laws are successfully carried out for one or both of two reasons:

(1) Scrupulous adherence to both the letter and spirit of the laws, irrespective of full agreement;

(2) Motivation already present, with the laws and regulations providing the tools for procedure.

A National Education Association Study of "the actual experience of school districts in carrying out the provisions of state or local laws similar to the federal legislation" was conducted October through December, 1977. Their report states:

> Among the notable features of Public Law 94-142 is that its passage in 1975 was so little noted by so many of the people whom it will most affect. There has been no more revolutionary development in public school education since the Supreme Court in 1954 declared segregated schools to be inherently unequal and established education as a right that, if provided by the state to any children, must be provided equally to all children. But, compared with the widespread and impassioned

> response--pro and con--to the Brown decision, public and professional reaction to this landmark legislation has been muted.[1]

Specific Purposes of This Report

September 1978 will mark the first year Federal monies were paid to states whose State Plans were approved, according to the timelines of the four year changeover process specified in detail by P.L. 94-142.

The original, stated purposes of this report were:

> To examine how educational administration is and will be meeting the demands made on it by the new Acts on City, State and Federal levels; also, to determine how teacher training in regular as well as special education is being affected to assure that the children will be properly benefitted.

As the first step in my research, I approached New York City's Mayor's Office for the Handicapped for assistance. In an excellent, fact-filled booklet: 94-142 and 504: Numbers that Add Up to Educational Rights for Handicapped Children - A Guide for Parents and Advocates, published by the Children's Defense Fund,[2] the Office is cited as the resource for advocacy groups in New York City for technical assistance and services for parents of handicapped children. I described my objectives to the Deputy Director. As it turned out, my work was in consonance with an MOH project, just started, to keep a file on the conformance practices and procedures of the New York City Board of Education.

I was offered and accepted the assignment of volunteer coordinator of this project and worked with two other coordinators, from the MOH staff.

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[1] Dorothy C. Massie, A Study Report--Education for All Handicapped Children: Consensus, Conflict, and Challenge. (Washington, D. C.: National Education Association of the United States, 1978), p.7.

[2] Daniel Yohalem and Janet Dinsmore, 94-142 and 504: Numbers That Add Up to Educational Rights for Handicapped Children - A Guide for Parents and Advocates. (Washington, D. C.: Children's Defense Fund of the Washington Research Project, Inc. 1978), p. 31.

Although the area of concern of the MOH project is the education of handicapped children and a comparison of the quality or effectiveness of various pedagogical techniques and practices is clearly of important consequence to a successful educational experience, that type of evaluation was beyond the scope of this project. Comparisons were made only insofar as State and Local Education Agency (LEA) plans and procedures of the education administrations evidenced different methods and techniques of compliance with the laws and the seriousness of intent to achieve successful implementation. For, as a coordinator for the In-Service Teacher Training Workshops of the NYC Board of Education Special Education Information and Materials Center (SEIMC) said concerning local schools, which are one of the smallest education administration units: "The position of the Principal is crucial. If he's for it, the whole school will go ahead positively."[1]

The goals and purposes of the MOH project were set at:

- completing a catalogued library of all current legislation and relevant reference material;
- a full understanding of the concepts and familiarity with the language of the laws; in order to
- monitor the delivery of services to the children by the NYC Board of Education and the New York State Department of Education; and to
- assist parents to fully avail themselves of their own and their children's rights under law.

A further aim developed during the work of the MOH project: If, as a result of this investigation, specific problems that parents of handicapped children have in accepting their required roles and responsibilities as advocates for their children were discerned, and the remedies for their problems were not sufficiently or clearly specified

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[1]Interview at SEIMC, 100 First Avenue, New York City, June 27, 1978, with Denise Adler.

in the Regulations or in practice, recommendations for meeting those needs would be attempted. (See proposal for "Pilot Project," page 48.and Appendix E, page 58.)

Methods of Research

Through the Office, State Education Agency (SEA) plans and interpretations of the laws from many states in the nation, as well as the printed materials of local and nation-wide consumer, parent and provider groups were readily available for study. There was also increased entree for extensive interviews with significant government officials (including one of the authors of P.L. 94-142), and those in every education establishment charged with carrying out the complex new regulations.

Together with the Director of the MOH, I spent a morning at the Queens Center for Multiple-Handicapped Children. We were taken on a full tour of the school, shown the "bio-engineering" by which use and accessibility is insured for the most profoundly and multiple handicapped children. We witnessed the responsiveness of autistic children to sign language. In addition to our observations, we were given in-depth analyses of methods and procedures--and problems--by the entire staff.[1]

I spent a day at the SEIMC Center establishing closer liaison with the MOH. The work and results of New York City's Child Find Program, which the Center coordinates, were explained. I saw some of the available multi-media materials which they lend free of charge. The In-Service teacher training workshops, which the Center organizes, were described. SEIMC is a vital source for the refocusing of attitudes as handicapped children become integrated in the

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[1]It is here one can comprehend the spirit and significance of the term 'least restrictive environment.' For children who would have spent most of their learning years at home, facilities such as these offer a less restrictive environment than the educational and social isolation of home instruction. As a result of the rehabilitation provided in these programs, some students are advanced to other appropriate school based special education classes." -- from Creating Least Restrictive Learning Environments: A Guide for Mainstreaming, NYC Board of Education Planning and Support, Curriculum Bulletin - 1977-78 Series - No. 19. 1078. p.36.

schools, to the maximum extent possible, as the law now requires. The problems of this mammoth work, with reduced personnel because New York City is in the midst of a financial crisis, were defined at length. I received a copy for the MOH archives of their extensive grant proposal for "Project EPIC - Educating Personnel through In-Service Collaboration." The planner gave me a detailed analysis. This proposal has been accepted by HEW, but without funding, as of June 1978.

Chancellor Frank Macchiarola is replacing Irving Anker, who retired at the end of June 1978. His understanding of, and commitment to, the education of handicapped children is, so far, unknown. The New York City Board of Education is in the midst of a complete shake-up, heavily political, due to the financial crunch and the desire of Mayor Koch for more direct control by the City. The population of handicapped children in New York City is so large that it equals the entire school population of Syracuse, N. Y. The New York City Board of Education had claimed that it lacked 9,000 seats for waiting handicapped children. A Touche-Ross, Inc. audit found 9,000 empty seats.[1] Following the Touche-Ross survey, Dr. Helen Feulner, the previous director of the Division of Special Education Pupil Personnel Services (DSEPPS), retired and will be teaching at Fordham University. An outsider to the system is being sought to replace her. It is obvious that close attention will have to be paid to the gathering up of these and the many other bureaucratic threads complicating the administration of education of handicapped children in New York City.

Because success or failure in education rests ultimately with the classroom teacher, teachers of general and special education in New York City and the Board of Cooperative

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[1]Marcia Chambers, "Study Finds Empty School Seats For 9,000 Waiting Handicapped." The New York Times. April, 1978.

Education Services (BOCES) in Nassau County, as well as the representatives specializing in the area of the new laws from the two largest teacher unions--The United Federation of Teachers (AFT) and the National Education Association--were interviewed at length.

The Chairman of Special Education at Teachers College, Columbia University, discussed current and changing education patterns and the necessity for teachers to involve parents on a person-to-person level. Courses assisting teachers in how to enlighten parents of their rights and obligations are now included as part of the curriculum at Teachers College.[1]

All of the "People, Places and Events" are listed alphabetically in the Bibliography. In outline, the following are the highlights of my research between May-July, 1978:

FEDERAL - Analysis of P.L. 94-142 and the HEW Regulation for Section 504 relating to non-discrimination in the education of handicapped children.

Participation in "504 Workshop" given by American Coalition of Citizens with Disabilities (in Arlington, Va.).

Interviews with: Equal Opportunity Specialist with the Compliance Program Branch of the Office for Compliance and Enforcement, Office of Civil Rights (in Washington, D. C.).

: Author of P.L. 94-142, now Coordinator of Institute for Educational Leadership, George Washington University (in Washington, D. C.).

: Director of national parents' advocacy group and publishers of Closer Look (in Washington, D. C.).

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[1]Interview with Dr. Frances Connor, June 8, 1978

STATE - Analysis of: Handbook for parents of handicapped children, written by the Regents of the University of the State of New York, in accordance with Chapter 893 of the Laws of 1976 of New York State.

: State Plan for Louisiana.

: State Plan for Arizona - especially the work of the 504 Task Force.

: New York State Draft Plan - and attendance at Hearing in New York City for comments.

Interviews with: New York State Advocate for the Handicapped (in Washington, D. C.).

: Chairperson of the Advisory Board to Arizona Dept. of Education for Compliance with Section 504 Regulations on Removal of Architectural Barriers (in Washington, D. C.).

CITY - Tour of: Center for Multiple-Handicapped Children.

: New York City's Special Education Information and Materials Center (SEIMC). In depth analysis with staffs of both Centers as to work and problems encountered.

Interviews with: Special education teachers, therapists, administrative staff and Principal of Center for Multiple-Handicapped Children; coordinators of programs at SEIMC.

: Executive Assistant, Division of Special Education and Pupil Personnel Services.

PAROCHIAL SCHOOLS - Interview with: Director of Special Education, Catholic Charities. (Because of the separation of Church and State, P.L. 94-142 does not apply to parochial schools. However, Section 504 is applicable in some cases. An impressive awareness of

the laws, requirements and problems for implementation, as well as complete agreement with the philosophy of the new laws were evidenced.)

TEACHERS and TEACHER UNIONS - Analysis of NEA Study Report of experiences of school districts carrying out state or local laws similar to the federal legislation.

Interviews with: Classroom teacher of Trainable Mentally Retarded (TMR) children for over 20 years, BOCES-Nassau County.

: Manager, Teacher Rights Unit, NEA (in Washington, D. C.).

: Writer of NEA Report (in Washington, D. C.).

: Assistant to President, for teachers of Special Education, UFT.

TEACHER EDUCATION - Interview with: Special Education Chairman, Teachers College, Columbia University.

: Coordinator of In-Service Workshops, SEIMC.

II. THE NEW FEDERAL EDUCATION LAWS

"For years (parents have) fought to get their kids out of inferior classrooms, insisted that children who were failing get special teaching, gone doggedly to meeting after meeting to convice schools to accept children who were considered 'ineducable.' There's a difference now....Now parents have the law on their side. If you and your child have been turned away from school, told 'we don't take children like that' or given an exhausting run-around when you tried to get necessary services, this is the time to try again."

- Closer Look: "You Have New Rights--Use Them!"[1]

II.A. Section 504 Regulation by HEW

"Today I am issuing a regulation, pursuant to Section 504 of the Rehabilitation Act of 1973, that will open a new world of equal opportunity for more than 35 million handicapped Americans....It will usher in a new era of equality for handicapped individuals in which unfair barriers to self-sufficiency and decent treatment will begin to fall before the force of law." (Statement by Joseph A. Califano, Jr., Secretary of Health, Education and Welfare on April 28, 1977.)

The HEW Regulations serve as a prototype for forthcoming Regulations from every Federal fund dispensing agency. They are a virtual "Bill of Rights" for handicapped citizens. It is not surprising that the signing served as a focal point of sit-ins and demonstrations at HEW offices in the major cities throughout the country. Handicapped people and their supporters represent a newly militant and growing force in American politics.

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[1] Barbara Scheiber (Ed.) "You Have New Rights - Use Them!" The Closer Look Report. (Washington, D. C.: The Parents Campaign for Handicapped Children and Youth, Fall, 1977), p.2.

Definition

The term handicap includes such diseases or conditions as speech, hearing, visual and orthopedic impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, diabetes, heart disease, mental retardation, emotional illness, and specific learning disabilities such as perceptual handicaps, dyslexia, minimal brain dysfunction and developmental aphasia.

In accordance with a formal opinion of the Attorney General of the United States, alcohol and drug addicts (sometimes derogatorily referred to by other handicapped people as "voluntarily handicapped") are also considered handicapped individuals. Physical or mental impairments must be severe enough to substantially limit one or more of the major life functions.[1]

Education

All educational institutions receiving Federal financial assistance must comply with the HEW regulation including: preschool, elementary and secondary, post-secondary and adult education. As stated in the Federal Register, both Acts require public education programs to assure "a free appropriate public education to each qualified handicapped child in the most normal setting appropriate" (Vol. 42 No. 36, May 4, 1977:22677) "as close to home as possible" (p.22691).

"Section 504 does not require State education plans--it mandates."[2] The stipulations for the State plans required to qualify for assistance under P.L. 94-142 are described in Section II.B., below.

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[1]U. S. Dept. of Health, Education, and Welfare. Section 504 of the Rehabilitation Act of 1973--Fact Sheet: Handicapped Persons - Rights Under Federal Law. July 1977. p.1.

According to the statute, "any person who (A) has a physical or mental impairment which substantially limits one or more of such persons major life activities (B) has a record of such an impairment, or (C) is regarded as having such an impairment," is considered handicapped.

[2]Interview with Dr. Bud Keith, Senior Equal Opportunity Specialist of the Office for Compliance and Enforcement, Office of Civil Rights, HEW, Washington, D. C. May 5, 1978.

Program Accessibility

The key idea of "504" is equality of access to programs. Required courses, a reasonable selection of elective courses, extra-curricular activities, library and administrative services, housing accommodations--if offered to the non-handicapped--must be available to the handicapped as well. Not every building or classroom need be accessible, but the program must be. Special arrangements (such as moving classes to accessible or barrier-free locations) may be made, but care must be taken not to isolate or concentrate handicapped people in settings away from non-handicapped program participants.

All buildings for which site clearance began after June 3, 1977, must be designed to be accessible and usable by handicapped persons from the start. The American National Standards Institute (ANSI) design standards can be used to determine minimal requirements for accessibility.

General Employment Provisions

Every person, upon reaching adulthood, has expectations of a "job" whether in or outside the home. Section 504 recognizes that the person with a handicap has the same need and right to be employed and has opened new opportunities never before available to otherwise qualified handicapped people. Recipients of HEW funds may not refuse to hire or promote handicapped persons solely because of their disability.[1]

Preemployment physical examinations as a general condition of employment are prohibited. Physical examinations to determine whether a handicapped person can do a certain job are permitted. Reasonable accommodation for employees, as well as students, must be made such as: a cassette recorder for a blind employee, changes in the physical

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[1] Avenues of Advocacy in Delaware - An Advocacy Training Manual for Parents of Exceptional Children. (Wilmington, Delaware: United Cerebral Palsy of Delaware, Inc. 1978), p.10.

location of the task to be performed, or similar actions. More extensive changes, under certain circumstances, might be necessary. The size and type of employing agency and the cost involved are considerations in determining undue hardship.

Failure to employ or promote an employee who is unqualified or cannot be helped by reasonable accommodation is not discrimination.

Employed handicapped adults, on all levels, serve as role-models for handicapped children and create a positive image for non-handicapped children and adults.

Complaints

In all cases, the Regulation emphasizes that a common sense rule of reason applies. "It should be stressed that where a handicapped student is so disruptive in a regular classroom that the education of other students is significantly impaired,"[1] the student can be reassigned. The rules of the school concerning use of drugs and alcohol apply to students with addiction problems just as to other students, as long as the rules apply equally to all students. Schools or colleges, like other employers, may apply their standards of employment performance to alcohol and drug problems as they would apply them in any other case.

The Office for Civil Rights is in charge of compliance and enforcement of all programs funded by HEW.

II.B. The Education For All Handicapped Children Act - P.L. 94-142

On November 28, 1975, the President signed into law S.6, the "Education For All Handicapped Children Act." The President's approval followed overwhelming endorsement of the House-Senate conference agreement in the Congress, with the House giving its approval to the conference

[1] Federal Register, Vol. 42 No. 86. May 4, 1977. p.22691.

report on November 18 by a vote of 404 to 7. On the following day the Senate gave its approval by a margin of 87 to 7. What follows is a characterization of the major features of what is now P.L. 94-142.

The Statement of Findings and Purpose of the Act are comprehensive and far-reaching and deserve mention in any analysis of the Act and account for the retitling of the Act. In investigating the status of the education of handicapped children in the United States, Congress found that:

> "(1) There are more than 8,000,000 handicapped children in the United States today;
> (2) The special educational needs of such children are not being fully met;
> (3) More than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;
> (4) One million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;
> (5) There are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;
> (6) Because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;
> (7) Developments in the training of teachers and in diagnostic instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children;
> (8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and
> (9) It is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law."[1]

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[1] U. S. Congress. Public Law 94-142. 94th Cong., 2d. November 29, 1975. p.2.

Financial Formula

P.L. 94-142 replaces the "Mathias Formula" (named after its originator) by which Federal financial assistance toward the added cost of education of handicapped children was previously authorized. (P.L. 93-380, the Education Amendment of 1974.) This amount was based upon factors of the number of all children aged three to twenty-one within each State times $8.75. This amount is to be retained until "kick-in" of the new formula.

P.L. 94-142 establishes a formula in which the Federal government makes a commitment to pay a gradually-escalating percentage of the national average expenditure per public school child times the number of handicapped children being served in the school districts of each State in the Nation. The percentage escalates on a yearly basis from five percent until 1982 when it becomes a permanent 40 percent. The formula utilizes an inflation factor so that the actual number of dollars paid fluctuates depending on adjustments in the national average per pupil expenditure.

Congressional sources drew up the following estimates for the funds that will be available based on the national average per pupil expenditure of $1,250 in 1975:

Fiscal 1978.....$387 million (5% factor)
Fiscal 1979.....$775 million (10% factor)
Fiscal 1980.....$1.2 billion (20% factor)
Fiscal 1981.....$2.32 billion (30% factor)
Fiscal 1982.....$3.16 billion (40% factor)

The law also contains a substantial pass-through to local school districts. In the first year of the new formula, 50 percent of the money going to each State would be allocated to the State Education Agency (SEA), and 50 percent would go to the local educational agency (LEA). In the following year, fiscal 1978, the LEA entitlement would be enlarged to 75 percent of the total allocation to a State, with the SEA retaining 25 percent. This 75-25 apportionment becomes the permanent distribution arrangement.

P.L. 94-142 went into effect on October 1, 1977, the beginning of the 1978 Federal fiscal year.

Beneficiaries and Counting Limitations

P.L. 94-142 stipulates that all handicapped children, aged three to twenty-one years, may enjoy the special education and related services provided through this measure. (Alcohol and drug addiction are not included as handicapping conditions.)

The measure prohibits counting more than 12 percent as handicapped served within the total school-age population of the State between the ages of five and seventeen in order to avoid the potential threat of "over-counting."

A given school district must assure that a sum of State and local funds equal to the average annual per pupil expenditure for all children being served in the district is available for each handicapped child before Federal funds can be used.

If handicapped children are counted under P.L. 89-313, which provides supplemental educational assistance for handicapped children in State operated or supported schools, they may not be counted again for entitlement from P.L. 94-142.

Management and Administration

In order to qualify for Federal assistance, each State is required to submit a plan to the federal government, and be approved, showing how it will carry out the requirements of the Act for a free and appropriate education for all handicapped children. The SEA authority is important for at least the following reasons:

- to centralize accountability
- to encourage the best utilization of education resources
- to ensure day-by-day coordination of efforts among involved agencies and terminate bureaucratic "bumping" of children from agency to agency
- to ensure a responsible public agency for due process procedures.

Each state must set up an advisory board, including handicapped individuals, teachers, and parents of handicapped children. This board is to advise the State on unmet needs, comment publicly on rules and regulations and assist in evaluating programs.

The law makes it possible for local school systems, too, to receive a share of Federal funds, as long as the requirements specified by law are met. Local school districts must prepare detailed plans for state approval, showing how they will fulfill the purposes of the law.[1]

Funds can be witheld if, after reasonable notice and an opportunity for a hearing, a State is found by the U. S. Commissioner of Education to have failed to comply with the Act.

Payments by the State to local school systems may also be suspended for non-compliance. If the State determines that a locality is unable or unwilling to set up or consolidate programs, the State will use the funds to provide services directly to those children.

Blueprint for Change - Highlights of P.L. 94-142

EDUCATION FOR ALL

Free and appropriate public education for all children with handicaps ages 3 to 18 by September 1978 and 3 to 21 by September 1980

CHILD-FIND

Identification, location and evaluation of all children with handicaps

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PRIORITIES

First: "unserved" children, i.e., those not presently receiving an education

Second: children with the most severe handicaps not receiving an adequate education

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[1] "The New Education Law: What Does It Mean?" The Closer Look Report (Washington, D. C.: National Information Center for the Handicapped, 1976-77). p.1.

LEAST RESTRICTIVE ENVIRONMENTS

Education of handicapped children together with non-handicapped children to the maximum extent possible

Special education and related services in the least restrictive environment commensurate with their needs

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PRE-SCHOOL CHILDREN

Additional $300/year to the State for every handicapped child served between ages 3-5

PARENT RIGHTS

Consultation, identification, evaluation, and placement (required)

Participation in preparing and implementing educational plans (required)

Examination of relevant records - confidentiality of records

Presentation of complaints

Due process procedure

PROFESSIONAL PERSONNEL

Appropriate pre-service preparation and training

In-service training for general and special educators

Equal employment of persons with handicaps

TESTING AND EVALUATION MATERIALS AND PROCEDURES

Must be racially and culturally non-discriminatory

In the primary language or "mode of communication" of child

No one test or procedure the sole means of decision about educational program

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INDIVIDUALIZED EDUCATION PROGRAM (Diagnostic/prescriptive)

Development meeting held within 30 days of an evaluation

Participation by teachers, supervisor of special education in local district, parents/guardians, and, if appropriate, the child

Written educational plan at the start of each school year

Annual goals (irrespective of available services)

Short-term instructional objectives

Specific educational services

Degree of mainstream participation

Periodic evaluation (at least once a year)

REMOVING ARCHITECTURAL BARRIERS

Grants available to pay for part of all of the costs to remove physical barriers in educational facilities

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PRIVATE SCHOOL PLACEMENT

By State or local education system in order for child to receive appropriate education - day or residential programs

At no cost to parents--including room, board, transportation, non-medical care

Private school programs must meet standards set by law

Local district must safeguard the rights of parent and child guaranteed by law

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III. IMPLEMENTATION

"The education of all handicapped children is not easy to implement....We're talking about a major change in delivery of services; we're talking about a variety of problems the schools have not grappled with before."

- Lisa Walker, Coordinator of Education for the Handicapped Policy Project. Institute for Educational Leadership, George Washington University and Co-author of P.L. 94-142[1]

III.A. Setting National Minimum Standards

Over the last ten to fifteen years, throughout the United States, awareness has been growing of the special education needs of handicapped children. Prior to the enactment of the new laws, forty-nine states had their own or similar laws.

The new laws set specific requirements for national minimum standards to assure a free appropriate public education for all handicapped children.

The responsibility for the education of handicapped children is shared by many agencies, such as:

- the Division for Youth
- the Department of Health
- the Department of Mental Health
- the Department of Social Services
- the Department of Welfare
- the Department of Correctional Services

The SEA is required to identify all such agencies and enter into inter-agency agreements on policy. Lisa Walker said:

> In many cases it was hard for agencies not used to Federal laws requiring all the specifics the new education for handicapped kids does. Their first reaction was not to believe it or that it would not be enforced.
>
> There is confusion between Federal requirements and State laws.

[1] Interview May 5, 1978.

> Some thumb their noses at it, others see it as their own responsibility and their own laws and practices are similar.

III.P. Intent of the Laws

P.L. 94-142 and Section 504 are, basically, civil rights laws with the intent of moving toward integration and involvement of handicapped children in a meaningful manner--not in token ways--toward a distinctionless society of handicapped and non-handicapped children.

> The law requires the integrated education of handicapped children to be to the maximum extent appropriate for that child. If he/she is set apart from non-handicapped children, it must be demonstated that it is necessary to separate the child to meet educational needs.
>
> The law begins by assuming the child belongs in an integrated class. Then, justification for every step taken away must be made.
>
> - Dr. Bud Keith, Senior Equal Opportunity Specialist, Office of Compliance and Enforcement, Office of Civil Rights, HEW[1]

The law is clear: A variety of different placements are available, but the decision for placement may not be based on the child's disability per se, as a class. That is, discriminatory labelling such as all mentally retarded children with IQ's of under 70 end up in self-contained classes. Testing must be multi disciplinary and culture free. The least educable child must receive a free appropriate public education. There are timelines.

Proud of the school in Nassau County where she is a classroom teacher, Loraine Rubin said that her school services children with IQ's up to 50, with very individualized programs for each child. The school has found the IEP very helpful. She said:

> We have children who are not testable. They need only be ambulatory and toilet trained--

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[1]Interview May 5, 1978.

> Come to think of it, those are requirements which should be cut out!"[1]

III.C. Funds

Under Section 504, an agency found to be in non-compliance may lose all Federal funding. Section 504's reach extends to all education levels.

P.L. 94-142 pertains only to public pre-school, and elementary and secondary education. Under this Act, additional funding is provided to the States which qualify. In order to qualify, a comprehensive planning document geared to the explicit requirements must be submitted and approved, the State Plan.

In our huge and diverse country, each State has unique problems in developing its State Plan. The size, geographic location, heterogeneity of population and economic status are important factors. There are also vast disparities in the numbers of handicapped children and the histories of special education programs within each state.

III.C.1. Comparison Between Louisiana's and New York's State Plans

LOUISIANA'S PLAN interprets the SEA role as follows:

> Public Law 94-142 can be regarded as a management and administrative problem...This position implies that the SEA can adopt roles and procedures for acting as a change agent.[2]

Its copyrighted plan for implementation is "presented through the use of the Program Evaluation and Review Technique (P.E.R.T.)."[3]

Copies of Louisiana's An Inservice Training Program for P.L. 94-142 were distributed to the nation's State

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[1]Interview with Loraine Rubin, Classroom Teacher, BOCES-Nassau County, May 5, 1978.

[2]Louisiana's Plan for Implementation of P.L. 94-142. (Louisiana: State Dept. of Education. 1977.) p.1.

[3]Ibid.

Directors of Special Education "so that we can share some information and a technique which has helped us in this task and may be of use to you."[1] From the Program:

> The training program is designed to give specific answers to questions, to facilitate the communication and interaction between local agency personnel and the SEA, to allow LEA and SEA personnel to analyze, synthesize and apply the concept of law as they are related to specific issues and problems in the school system, and increase their usage of other language and concepts contained in P.L. 94-142.[2]

The training program contains modules appropriate for parents, teachers and administrators. In the "summary" section, critical comments are candidly included:

> Like most teaching and management procedures the technique has its limitations....Reviewers and participants have commented that it...
>
> - can be "cute" and "picky";
> - is anappropriate for audiences who are knowledgeable about P.L. 94-142:
> - may promote a "smart" or "flippant" attitude.

Favorable responses stated that it not only satisfied the original purposes, but additionally...

- gives SEA personnel a "good feel" for the attitudes of the implementers;
- assists LEA personnel to see that the law is much broader and more flexible than is sometimes thought;
- promotes creative exploration of alternatives for the implementation of the law.[3]

Louisiana's functional State Plan serves as a complete source of reference which analyzes and synthesizes the letter of the law and necessary inferences.

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[1]From covering letter of Dr. Henry L. Smith, Assistant Superintendent of Special Education Services of the State of Louisiana, April 17, 1977.

[2]Bob Schedgick, Ph.D. and Leonard McCaffery, M.Ed. An Inservice Training Program for Implementation of P.L. 94-142. (Louisiana: State Dept. of Education. 1977), p.1.

[3]Ibid.

It is relevant here to point out, as Lisa Walker did, that Louisiana has come from having no legislation with respect to special education to a point where they developed their own laws within the last three years. She observed:

> They rewrote their entire law. They had no former procedures that had to be worried about. They brought in somebody brand new. It's not a small state, but it's not a large one. And they asked for a lot of technical assistance in support.

NEW YORK STATE PLAN:

With its long history of special education programs, multi-agency responsibilities, and large handicapped population--especially in New York City--New York State's legislation closely resembles P.L. 94-142. This was brought about in large part by the decision of the New York State Education Commissioner, ruling on an appeal to him in The Matter of Riley Reid v. The New York City Board of Education, in November 1973. This landmark case was also of major importance because an extensive investigation by the State Investigation Department showed a lack of desire by the NYC Board of Education to come to grips with the problems of handicapped children. State Education Commissioner Nyquist ordered the deficiencies in staff and physical facilities that caused these conditions to be remedied. The decision reinforced, again, the right of all handicapped children to receive an education in an appropriate setting.

Nonetheless, in April 1978, an article in The New York Times reported:

> The city school system, the largest in the nation, has been accused by the Federal Office for Civil Rights of illegally discriminating against some handicapped children by having excessive waiting lists for evaluation and placement and by giving handicapped children a shorter school day.[1]

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[1]Marcia Chamber. "Study Finds Empty School Seats For 9,000 Waiting Handicapped." N. Y. Times. April 1978.

New York State includes large urban, suburban and rural populations. Loraine Rubin, classroom teacher for BOCES-Nassau County, described some differences between urban and suburban educations of handicapped children:

> We're talking on two different wavelengths, about two different worlds, when talking about the educations in Nassau County and New York City.
>
> Nassau County classes were started as a result of very strong parent action. Mainstreaming of retarded, blind and deaf children has been going on for a long time. They are sophisticated programs, supported by active parents, for a stable population.
>
> New York City began some of the first programs for handicapped children. There are now so many City systems piled on top of each other--the Child Guidance Bureau, the this-and-that-and-the-other-thing--in which innovation may be imposed or come about and there's no way to check...It needs a refreshing, an airing from the bureaucratic mess.[1]

The New York State Draft Plan for 1978 attempted to put the language of the law into layman's language. Over 2,000 copies were distributed, and hearings were held in the regional offices in Rochester, Albany, Long Island, and New York City.

Comments at the New York City Hearing, held April 26, 1978,[2] noted lacks in the Draft Plan:

- significant errors: such as numbers of handicapped children, especially deaf children, and interpretations of the law;
- omissions: such as reference to homebound instruction; removal of architectural barriers.

The Draft Plan describes "Problems in Collection of Data," such as:

> In some cases, data is impossible to collect, even though collection is required by State or Federal law. For example, by its own admission,

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[1]Interview May 5, 1978.

> the Federal government does not know how many illegal aliens enter New York City each year. Yet, the Education for All Handicapped Children Act requires the State to promise that it will provide a free appropriate public education to all children with handicapping conditions by September 1, 1978. How can New York serve these children when even the Federal government admits it has no effective way of funding them or their parents?"[1]

The completed New York State Plan is twice again as large as the Draft Plan.

III.C.2. Parochial Schools

The general Catholic school system, because of the separation of Church and State, may not receive the additional funding of P.L. 94-142 and is not subject to Section 504 regulation.

In New York City, education for handicapped children in Catholic as well as public schools has a long history. As in public schools, there are clusters of two or three small classes for the mentally retarded in different parish schools. Blind children have been integrated in regular classes for over twenty years, with the assistance of itinerant teachers. Individual attention to each child's special needs has been the philosophy. Dwindling finances are a real threat to continuation of the education of handicapped children in Catholic schools. Contact with the Board of Education is maintained by meetings, the sharing of information, and workshops.

There are three Catholic, State-funded "private" schools for the deaf, strategically located in the Bronx, Queens and Brooklyn according to a geographic proportion number system worked out by New York State so that deaf children in all boroughs will be served. These schools fall under the jurisdiction of Section 504. Separate schools for

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[1] Helping Children with Handicapping Conditions in New York State. Draft New York State Plan Submitted Under The Education For All Handicapped Children Act (P.L. 94-142). (Albany, N. Y.: The University of the State of New York, The State Education Dept., 1978), p.29.

the deaf are in accordance with the concept of least restrictive environment in order for the schools to thoroughly study and evaluate the ability, intellectual level and other factors which determine whether the individual child is ready for "mainstreaming."

Father Thomas Cribbin, Director of the Office for the Handicapped, Division of Catholic Charities of the Diocese of Brooklyn, was the founder of St. Francis de Sales School for the Deaf in Brooklyn. He said:

> What we're afraid of is a rush and a "dumping" into the mainstream.
>
> Another real fear is the dollars and cents--the budget. You know, the temptation is to think: "If we can get this many into the mainstream, we can cut the budget in half."
>
> You have to work with each individual child, as the IEP recognizes. And there is the reality factor. For a variety of reasons, some children just can't make it in the mainstream. The judgment for placement may have been sound--a good judgment. But when you translate the theoretic judgment into practice, it just doesn't work.[1]

III.D. From Old Saybrook, Conn.: "Living With Public Law 94-142"[2]

The Director of Special Education writes that after more than a full year of living with P.L. 94-142, the best phrase she can find to describe her feelings for the law "is mixed emotion."[3]

Before P.L. 94-142, Connecticut had its own legislation. State Statute 10-76 is one of the nation's more stringent education laws. 10-76 requires PPT (placement and planning team) meetings and mandates that parents, teachers, school psychological service personnel, principals, and the child, where appropriate, attend. PPT's are still required; IEP's have been added.

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[1] Interview July 6, 1978.

[2] Patricia Vernon. "Life With Public Law 94-142." The Special Education Report Issue No. 531. (Old Saybrook, Ct.: Inst. for Learning, A Division of Inst. for Management, Inc. June 1978), p.2.

[3] Ibid.

Old Saybrook has a school population of 2,000 students, of which 260 are in special education--some of whom are placed outside the district.

"For a child advocate, it is difficult to be critical of 94-142," Vernon states, "but the impact on schools and school systems has been significant....A new language has developed and anyone 'outside' the system becomes lost in the labyrinth of assurances and safeguards."

Since P.L. 94-142 is a "devourer of staff time" and involves the full gamut of personnel from clerical staff to principal, in addition to the increased programs, staff, and budget, "Special education is becoming the fall guy, scapegoat, whipping boy for budgeting problems."[1] She reports "grumblings" from:

- Community members who are not willing to accept integration and resent the additional time, effort and dollars beyond what their own children receive;
- Education administrators who grumble that the time devoted to the requirements of P.L. 94-142 is time taken away from the needs of the majority of students;
- Classroom teachers who view the whole issue of mainstreaming and educating handicapped children as an added responsibility.

On "the brighter side" there are a "few" Federal dollars which "do not begin to pay for the services mandated by P.L. 94-142."[2] Other advantages are:

- Increased involvement by parents of handicapped children;
- Increased communication between special education specialists and classroom teachers;
- The IEP formalizes goals and standards, with specific objectives to monitor progress or lack of progress, and assurance that youngsters won't

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[1] Ibid.

[2] Ibid. p.3.

be locked into programs that do not meet their individual needs.

Given these plusses and minuses, Old Saybrook's schools also realize Federal and State laws have determined that schools are required to provide an education for all children beyond the three R's. Modifications in the law and implementing regulations for P.L. 94-142 will evolve as all involved pool knowledge and insights gained through research to assess whether:

- Placement in the least restrictive environment is in the child's best interest;
- Classroom teachers can effectively teach non-handicapped students with several handicapped children in the class;
- It really helps the handicapped child socially by being integrated into the mainstream.[1]

Vernon observed:

> It has been stated that one long-range goal of the law is to provide impetus to individualize education for all children, not just those with special needs. The jury is still out with respect to the verdict on what has been accomplished.[2]

III.E. Compliance Reviews by BEH

In order "to assess and assure the effectiveness of efforts to educate handicapped children," as the wording of P.L. 94-142 requires, the Bureau reviews every single state in a two year time--approximately 25 states per year.

On May 5, 1978, Lisa Walker said:

> They've gone into their first cycle and have done a complete compliance review on every state. They interview parents, talk to teachers in all the school districts and they go into state institutions to find precisely what needs to be done.

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[1] Ibid. p.7.

[2] Ibid. p.2.

There is a very active parents' group in Boston, Mass.: The Federation for Children with Special Needs, which publishes Newsline to serve as "a clearinghouse for news and information of interest to people concerned with children with special needs." The July 1978 issue reported:

> It was worthwhile for one Boston mother to make a trip downtown...part of a group of Boston parents who met with a member of the visiting BEH staff to discuss the state of special education in Boston.
>
> (She) presented, in detail, the problems that she was having in getting services for her son. The Federation learned that on the following day, the BEH staff person visited the school that the woman's son attends and found, first-hand, that everything she had said was true.
>
> As this incident demonstrates, it is important for parents to come out to meetings and give accounts of their experiences![1]

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[1]Alexis Casey (Ed.), Newsline. (Boston, Mass.: Federation for Children with Special Needs, July 1978), p.3.

IV. THE REALITY FACTOR

"This must be the deepest prejudice people have."

- Dorothy Massie, Human Rights Specialist, Teachers Rights Unit, National Association of Education[1]

IV.A. Attitudinal Barriers

> Effective teacher training for mainstreaming will only come about when society's attitudes have changed. That will only happen by mainstreaming.
>
> We haven't only isolated the handicapped kids; we've isolated the able bodied youngsters from the realities of life. When, from pre-school onward, kids have been involved with and are therefore comfortable with children who are different, it won't seem strange that they require a little effort on our part. Not help. A little effort on our part will become a very common thing.
>
> -- Loraine Rubin, Classroom Teacher, BOCES-Nassau County[2]

Though P.L. 94-142 is complex and detailed, its analysis, sythesis, and the initial preparations of the administrative superstructure are procedural activities. Familiar strings attached to the money. The proliferation during the last five years of "how to" books, manuals, and brochures for everything from learning to empathize with different handicapping conditions to parent advocacy assertiveness training has been remarkable, especially considering the dearth of information in the immediate past. Though filling a previous void, they are still theoretical.

Dr. Frances Connor is the Chairman of Special Education at Teachers College, Columbia University. This has

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[1]Interview May 3, 1978.

[2]Interview May 5, 1978

been her field since 1945. Dr. Connor and Teachers College believe that as a result of the new laws, an important role for teachers will be working with parents--helping them to be their children's advocates. A new course--Introduction to Exceptional Children: Working With Parents--involves due process and IEP's. "Not IEP's, how to write them, but what they mean to the parents; how the parents and children can become involved."[1] She expressed a cautious optimism:

> In the summer sessions, teachers come to class with all sorts of apprehension of parents being so involved. After three week's time there is a shift, at least in the lingo they give me. And if they show this change to me, eventually they're going to have it become part of them. I think.

However, Dr. Connor has also observed a darker aspect of the attitudinal barrier manifesting itself. In the Spring of 1978, a week long Institute on Parenting With Young Children was held. She said:

> There were questions from general educators about why we should have the tubes in kids, have them survive, all the rest of it. One woman said (and I encouraged her to expand, saying that nothing was inappropriate): "What right do we have to keep these children alive? They have pneumonia, there is open heart surgery for Down's kids. We are making priority statements to spend money on the education of these children and keeping them alive, when we are curtailing research in medicine, in medical practice.

In her summary statement for the Institute, Dr. Connor expressed her reaction to what was taking place. She said:

> Now we have 94-142 and 504 which mandate that there will be no question: there will be education for all children. And what I hear here, and what has come to me as an extention of what you have said, is that the question is not, "Who shall be educated?" but "Who shall live? If they are dead you don't have to educate them."

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[1]Interview June 8, 1978.

In the transition period to integration from segregation, the fiercest battles to be fought will be at the attitudinal barriers.

IV.B Teachers and Their Unions

> In Atlanta, there was hostility between a regular teacher and a special education teacher. The regular teacher said: "You've only got a few kids who are called handicapped. I've got 40 and I think they all belong in special education."
>
> A panel member asked the other teacher why she went into special education. She answered: "I'd been a regular teacher for many years. I went into special ed for the reasons she just gave you."
>
> -- Dorothy Massie, Coordinator and Writer of Report of the NEA Panel for the Study of Education of the Handicapped[1]

> We've come a long way in Arizona with awareness and removal of architectural barriers. But the teachers will never change. Because the resource teacher comes in to assist the handicapped kids, the regular teacher is interpreting that to mean those children are not her problem. She sits them in one row at the side of the room and doesn't bother with them.
>
> -- Ruth Deland, Chairperson, Arizona Congress for Action[2]

Most teachers are professional and caring people who want to work effectively with all their students. Many spoke of the distance that has long separated the two worlds of special and regular education and of the critical need to bring those two worlds together as the two groups begin to share responsibility for handicapped and nonhandicapped children in integrated educational settings.

The question of accountability is one that, justifiably, concerns all persons involved in meeting the require-

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[1]Interview May 3, 1978.

[2]Interview May 7, 1978.

ments of P.L. 94-142. But it is the teachers, more often than any other group, who bear the immediate burden of responsibility for the child's day-to-day performance. It is the teachers, more often, who have contact with the parents and whom the parents blame if they are dissatisfied with what is happening to their child in school. "Life With Public Law 94-142" says:

> Increased paperwork and time at meetings have slowed down the process of serving impaired, disabled, and handicapped students. Staff members are becoming increasingly more paranoid about serving special education students for fear of violating rights.[1]

While P.L. 94-142 contains a provision which states that the IEP is not a contract, HEW comments warn that good faith efforts must be shown. If the parents feel that these efforts are not really being made, they have the right to invoke due process procedures. In confusion, some teachers are refusing to sign the IEP's. In other cases, Dr. Connor pointed out:

> Unfortunately, what has been happening in the writing of some IEP's is they find out what a child can do, then modify it very slightly, and the objective for him is something he's already accomplished.[2]

The intent of the IEP is to provide a team approach to coordinating a program for a student with special needs. The time involved to arrange mutually acceptable hours for all parties and then write the plan is unwieldy and often unsuccessful. "Life With Public Law 94-142" says:

> Consequently, each person involved writes his/her portion of the IEP in isolation, and the value of the team approach is lost.[3]

On the other hand, there are many general teachers who know nothing about the new laws, believe they will not be involved, especially if they "leave the whole thing alone."

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[1]Vernon, loc. cit., p. 3.

[2]Interview June 8, 1978

[3]Vernon, loc. cit., p. 3.

For the most part, unless teachers have taken the Master's program in special education, their training did not even include a general orientation as to the diverse behaviors and learning styles of handicapped children or the special services which are available. In addition, the teachers' own experiences were in a society which has practiced the exclusion of handicapped people in all areas.

Simon Schwartz, Assistant to the President in charge of Special Education and Special Programs, the United Federation of Teachers, asserted:

> Without staff development, without training, without everything else, you're mandating some of these people to fill out IEP's--which become meaningless pieces of paper.
>
> If you overload people with paperwork, they'll fill out the paperwork and you'll get the garbage you want.[1]

TEACHERS UNIONS:

The local and state organizations of the UFT have adopted policies to seek changes in the law that will eliminate the IEP. It is the UFT's belief that in this way much of the teachers' paperwork will be eliminated and allow more time for direct work with the children. At the hearing of New York State's Draft Plan, Schwartz exhibited 40 pages of forms mandated by just one Bureau in the New York City Board of Education.[2]

The NEA supports the IEP, with the hope that its use will be extended to all children. However, it recommends a reduction of student-teacher contact hours "in order to accommodate the legitimate needs of teachers and of the education program itself."[3]

Both unions recommend sufficient notice be given to the regular teacher receiving a handicapped child with information regarding his/her special needs and that support or crisis mechanisms be available.

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[1] Interview May 26, 1978.

[2] NYC Hearing at World Trade Center, April 26, 1978.

[3] Massie, loc. cit., p. 411

Many educators and the Council for Exceptional Children believe that because of the extra teacher time and attention that must be involved with the handicapped child in the regular classroom, class size should be reduced. They point out that allowances are made by reduced class size in self-contained special education classes. Many others, including Dr. Keith of the Office of Civil Rights, take serious exception to any system of "weighting" class size according to any formula based on disability. A middle ground position is that support services be based on a case-by-case basis, with care being taken not to place a handicapped child in an already oversized class.

At the New York State Draft Plan Hearing in New York City, Schwartz testified for the UFT:

> We have noted far too many situations where the regular class teacher was not made aware that a child with handicapping condition was placed in his class. And far too many situations have been reported to us where even if he was made aware of the placement - that a full discussion of the child's limitations did not take place.

An unacceptable placement to all positions. It emphasizes the wisdom of the new laws' due process procedures and the role of parent as advocate. A "dumping" of children with handicapping conditions into the mainstream is contrary to both the letter and spirit of a least restrictive environment.

While the UFT presents many reasonable objections, there is a credibility gap insofar as its motives concerning the education of all handicapped children. The basic interests of the teachers' unions are teacher rights, working conditions and wages. The UFT's original position concerning P.L. 94-142 was non-participation by the states because there would be too few Federal dollars forthcoming to pay for the costs of the requirements. The UFT has, unfortunately, been the source of scare stories concerning both the health

problems handicapped children bring into the schools[1] and the educational problems they will cause non-handicapped children. By demanding standards of sensitivity training for non-handicapped students, teacher preparation to include being informed of all possible "limitations" of the incoming student who is handicapped--all for the noble purpose of "breaking down attitudinal barriers"--the program is damned before starting for want of perfection in a situation where more complete knowledge will only be learned by the doing.

IV.C. Teacher Education - In-Service and Pre-Service

> The most difficult part is breaking down the effect of misinformation which has been spread among teachers.
>
> -- Denise Adler, Teacher Trainer, SEIMC, New York City Board of Education[2]

As a result of the new laws, teachers will assume fundamentally changed responsibilities in the delivery of service to handicapped children:

- The regular teacher remains in direct contact with students, with the addition of children with handicapping conditions.
- The special education teacher assumes a more supportive indirect service role, teaching not only the child but his/her regular teachers and parents.
- Parents are required to be participants in the child's education team.

Both the statute and the implementing regulations place emphasis on a comprehensive system of personnel development to equip educators to handle this. But in most areas of the country, for a variety of reasons, in-service training has been minimal. Where it does take place, it is generally

[1] Testimony of Simon Schwartz for the UFT at NYC Draft Plan Hearing, April 26, 1978: "New York City has been wrestling with the problem of children who were sent from institutionalized State schools into the public schools. About 50 of these are carriers of Hepatitus B virus. They pose medical, educational, and staffing problems for all of us."

[2] Interview June 28, 1978

in the form of one-day workshops. If there is any agreement as to what the in-service training should be, it is that these short sessions, making "instant experts" are not satisfactory.

It is not to be expected that the teacher who is an expert in his own area is also going to be an expert with handicapped children. According to Dr. Frances Connor of Teachers College, the first ingredient necessary for a realistic in-service course--or any other course--is: "With regular teachers, we have to assure them that we understand their fears, and that they are real anxieties."[1]

In-Service training should include:

- Interpretation of the laws, including due process procedures and the making of an IEP
- Sensitivity training--what it feels like to have handicapping conditions:
  --Awareness of problems and simulation exercises
  --Introduction to the sophisticated testing, teaching and special services available for the child with handicapping conditions
- Analysis and understanding of the changing educational roles
- Practical programs:

> There needs to be pragmatic classroom types of education--not in academic, ivory tower, bureaucratic language--really down to earth. A good kindergarten teacher learning signing language and more crafts for autistic children, with the warm character and open attitude so many kindergarten teachers possess, are the skills most needed.
>
> - Martha Ware, Manager, Teachers Rights Unit, National Education Association[2]

There are no required under-graduate special education courses available to acquaint the potential "regular" classroom teacher with the basics of special education.

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[1]Interview June 8, 1978.

[2]Interview May 3, 1978.

These institutions should be encouraged to develop in the core curriculum at least one survey course on special education. It should include everything from methodology to adapting regular education materials, to selection of materials that can be used by both "regular" and "special" education students. In this way, the regular teacher will not feel as afraid and helpless when the handicapped child is mainstreamed into his class.

In any discussion concerning teacher training, the need for money is usually raised at this point.

"Project EPIC" is New York City's comprehensive grant proposal for in-service education. It would establish a Personnel Development Center in a school in each of the 32 Community School Districts "to provide lectures...on site, in-class assistance, individual conferences, problem solving, and specific intervention.[1] There are 50,000 teachers and more than 100,000 employees in the New York City school system. By this plan, eighteen schools would participate the first year (1978-79), with each borough represented, and eighteen schools would participate the following year. This plan anticipates a "ripple effect" would flow throughout the school, district and eventually within the entire system. HEW has approved Project EPIC, but without funding.

On April 26, 1978, Simon Schwartz of the UFT predicted that if "preparations do not get under way in the next ten or twelve weeks, then nothing will be happening in September."[2] (The target date for the education of all handicapped children.)

Lisa Walker was a co-author of P.L. 94-142 and is now coordinator of a program at George Washington University for educational leadership and for the development of sound educational policy--primarily elementary and secondary education--dealing with P.L. 94-142 and Section 504 insofar as the

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[1]Alan B. Friedman, "Proposal for Project EPIC." (New York City: DSEPPS, April 1978), p.2.

[2]NYS Draft Plan Hearing in New York City.

education part bears on P.L. 94-142. She was irritably critical of complaints about lack of money and insufficient teacher training. She said:[1]

> I think that there is plenty of money available under the Federal law. It has not been appropriated. If people believe that more money ought to be appropriated, there will be more community appropriations committees.
>
> The State has been required to be doing cooperative planning for in-service training since 1974. Grants have also been made to teacher organizations and a variety of other organizations to do in-service training as well. But it's up to the State to do in-service training.
>
> The law requires that the children receive an appropriate education and they can't receive it without suitably trained personnel. So that's an automatic ground for questioning compliance with the law. If the teacher is not trained, the parent has no need to agree to an IEP with such a teacher.

Walker then added:

> People have a right to be concerned if they don't feel they have been properly trained, but this law was enacted in 1975. It's going to come down to the point.
>
> I believe that teachers have a right to protect themselves. I believe that school districts ought to be concerned that they are getting enough support from the State and that they are getting enough technical assistance. But at some point we've got to get beyond the carping and arguing and get down to brass tacks and go ahead.

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[1]Interview May 5, 1978.

V. CONCLUSION

"No child is well served unless all are well served!"

- Lobbying slogan of Massachusetts Parents Coalition: Federation For Children With Special Needs

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The new laws mandate the right of every child, irrespective of the type or degree of handicapping condition, to a free appropriate public education.

"As short a time ago as 1971, when the Closer Look Center was started," the Executive Director, Dorothy Dean, said, "there was no thought of rights in State or Federal laws. Parents paid out of their own pockets to send their kids off to expensive private schools."[1]

The Study Report of the National Education Association particularly notices that:

> This law, unlike other rights laws, does not merely call for equality of educational opportunities, it calls for a public school education that is appropriate to the individual needs of each handicapped child. There has never been such a mandate before.[2]

The NEA believes that, "If indeed (the mandate) is fulfilled, it will ultimately have to be fulfilled for all children," hopefully resulting in "the most sweeping educational reform."[3]

The United Federation of Teachers is less optimistic. It is seeking legislation to do away with the IEP. Speaking for the UFT, Simon Schwartz discussed the provision for "least restrictive environment." He pointed out that teachers never work in one discipline alone--there are always

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[1] Dorothy Dean, Executive Director of the Parents' Campaign for Handicapped Children and Youth, and Closer Look. Interview May 1, 1978, in Washington, D. C.

[2] Massie, loc. cit., p.39.

[3] Ibid.

related areas (e.g. Math and Art). While the handicapped child may be evaluated as able to function in a particular subject area, the handicap may limit ability in a related area. Unless individualized resources are provided so that his handicap can be absorbed, when necessary, it is the "worst kind of cruelty" to mainstream this child "and destructive educationally." That a non-handicapped child might have the same problem wasn't considered.

Mr. Schwartz, for the UFT, maintains that:

> A classroom is not the normal setting of society but is an educational setting where one tries to take the child and his peers from the point of development to a higher or deeper or more profound level of understanding.[1]

Lisa Walker, who was herself a co-author of P.L. 94-142, disagrees:

> The question is: What is education? What do we mean by education? Is there just a certain amount of set information that we transmit to children or is, really, education the whole process of becoming acculturated and learning to deal with peers and differences?
>
> You can make as easy an argument that, first of all, children would learn more because of a child in their class who has a communicative disorder and the fact that they are beginning to understand the kinds of problems somebody else might have.[2]

Adult handicapped people believe integrated education to be necessary for a life of full societal participation--even though certain extra-curricular activities may not be as competitive in the integrated school. (Bud Keith, OCR attorney who is blind, fondly remembered acting in his school's plays and being an active participant in the sports of the school for the blind which he attended.) It is also recognized that some children with profound

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[1]Interview May 26, 1978.

[2]Interview May 5, 1978.

communications problems, such as those who are deaf, will have a more difficult time integrating.

Parents who are fearful for their children's well being, want other handicapped children to lead the way.

Lisa Walker, now Coordinator of the Education for the Handicapped Policy Project of George Washington University which is geared for in-service training and policy discussion for State and Federal policy makers concerning P.L. 94-142 and the education parts of Section 504, believes that:

> The future looks good. Implementation is going relatively well. You are talking about a revolution that is taking place--basic issues that haven't been grappled with before.

Parents brought about this revolution. According to Dr. Frances Connor, the Chairperson of the Department of Special Education, Teachers College, Columbia University, it began in the late 1940's and early 1950's when the parents of retarded children and parents of children with cerebral palsy banded together and sought services. "They were willing to take much less than their children needed," she said, "but it was a beginning--a search for assistance." She is encouraged by some of the younger parents who now, instead of questioning what caused their children's handicaps "are just asking: 'What is going to help them?'" These parents, she admitted, are generally in the higher socio-economic groups "who under ordinary circumstances are the most assertive and request certain kinds of considerations."

Dr. Connor added that now there are some professionals, "teachers who are advocates in addition to doing the regular academic learning" who are promoting in the parents an awareness of what they should be asking for:

> That's true even when the Boards of Education are not implementing the IEP's very well and their involvement of parents is essentially to bring them in to have them sign off.[1]

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[1]Interview June 18, 1978.

Throughout the country, successful implementation can be measured according to the existence and commitment of parents coalitions. In some cases, the difference between nearly neighboring communities is significant.

In California, Concilio de Padres is a successful Chicano parents organization helping the poorer parents, those who are fearful because they do not know the language or are illegal aliens.

In Boston, Martha Ziegler, Executive Director of the Federation for Children With Special Needs, wrote, in an Editorial for their publication Newsline:

> Although Massachusetts may not yet have achieved the full ideal, our state's accomplishments in special education are enormous; our state has demonstrated that it is possible to implement the kind of mandate contained in P.L. 94-142.[1]

She says, enthusiastically, of her own daughter, who is now entering junior high school and who has been mainstreamed for many years: "My daughter is going to be the first bilingual typist for the United Nations who is autistic."[2]

The Closer Look Center of the Parents Campaign for Handicapped Children and Youth is based in Washington, D. C. The Center sends speakers, where requested, gives technical assistance, publishes the newsletter Closer Look, and answers mail. Approximately 1,500 letters from distraught parents are received each Monday morning. All are answered by kits which give general advice concerning the new laws and specific help according to disability. The Center is now compiling lists of groups doing parent training for advocates to accompany parents of handicapped children in the preparation of IEP's.

The Executive Director says: "Once you get the parent involved and doing things, the feelings of helplessness and futility tend to go away."

---

[1]Casey (Ed.), loc. cit., p.2.

[2]Interview August 1, 1978.

New York City has been an 'enigma' to the Center because no coalitions of parents groups have developed there, as they have in Boston, Chicago and many other large cities. Dorothy Dean said:

> Principally, we believe, it is because of the strong position of the Association for Help of Retarded Children (AHRC). They have been so prominent that they have not encouraged the formation of any large coalitions. Which is unfortunate. With a large coalition, you have the opportunity for pressuring Albany.[1]

Concerned teachers and educators in New York City, on the other hand, speak of their anger at parents who are unresponsive, or so afraid of accepting their children's handicapping conditions that attention must be paid to the "child's rights" when in conflict with the parents' fears. No administrator or teacher, however, is willing to bring parents to Family Court in order to have a guardian assigned when handicapping conditions are believed to exist.

In response to this problem, the following proposal for a "Pilot Project To Reach Out To Parents Of Children With Handicapping Conditions In Secondary Schools" was given to Chancellor Macchiarola in August 1978. In September, the writer was authorized to adapt this concept and prepare the "Abstract for Competitive Grant Proposal Under EHA VI-B (FY 1979)--Project Priority Area: Innovative/Model Programs. The abstract was submitted by the High School Division of the New York City Board of Education, signed by Nathan Quinones, Executive Director, on September 29, 1978. (Appendix E) State Education Department approval of the abstract will allow submission of the $300,000 proposal, for January 1, 1979, implementation.

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[1]Interview May 1, 1978.

PILOT PROJECT TO REACH OUT TO PARENTS OF CHILDREN WITH HANDICAPPING CONDITIONS IN SECONDARY SCHOOLS

GOAL - The appropriate education to best meet the special needs of children with handicapping conditions in secondary schools and so insure their rights to equal opportunity.

STATEMENT - Federal funds are payable to both the State and local education arms in direct proportion to the number of children who have been properly evaluated.

- Public Law 94-142 requires the consent and participation of parents/guardians in order for the child to be evaluated.

- There is little protection for the child's right to the special education he or she may require if the parent does not consent.

- In New York City, parents have shown reluctance to participate for some of the following reasons:

a. Lack of understanding of the benefits, rights and safeguards for their children under the new laws;

b. Alienation because of personal fear and hostility to schools and authority;

c. Language and communication barriers;

d. Desire to protect their child's status as normal";

e. Feelings of helplessness and misunderstanding about their child's handicapping condition;

f. Illegal aliens;

g. A "let the school do it" attitude.

PROBLEM - How to reach out to and assist parents of children with handicapping conditions in secondary schools to become involved with their children's special education needs and rights so that the children are not deprived of the special services they may require for a successful educational experience.

SOLUTION - The pilot project of a local academic high school, in cooperation with the Mayor's Office for the Handicapped, will do the following:

1. The SCHOOL will provide office space and equipment for the Reach Out to Parents (of Children with Handicapping Conditions).
2. The MOH will provide technical assistance, speakers, and printed materials.
3. The Reach Out to Parents Office will establish communication and interaction with:
   a. parents of children with handicapping conditions already placed in the school;
   b. the general Parents' Association of the school;
   c. parents' groups involved in specific disabilities;
   d. relevant local community organizations (e.g. the Director of Special Education for Catholic Charities has expressed interest and desire to cooperate with this project);
   e. the Parents' Associations of feeder schools.

Thus, a support network will be forged for the encouragement many parents of children with handicapping conditions require in order to participate in the special education evaluations and placements of their children. In addition, when the regular efforts of the school and teacher have failed, parent-to-parent assistance may be provided.

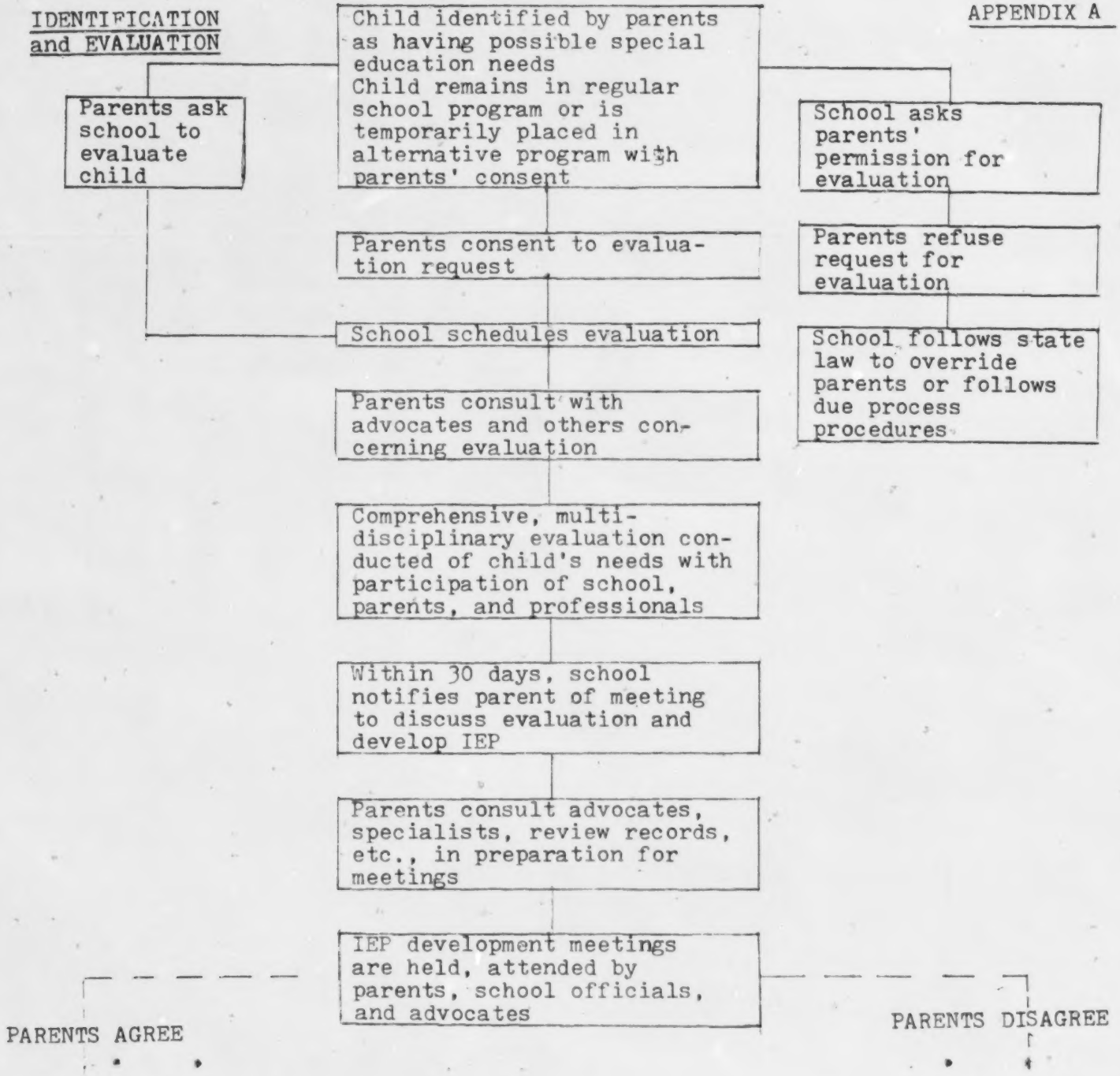
# # #

This kind of reach-out program has not been attempted by any individual school. Many teachers and guidance personnel have expressed both remorse and frustration at their inability to get cooperation from a number of parents when they know or suspect the presence of such a condition.

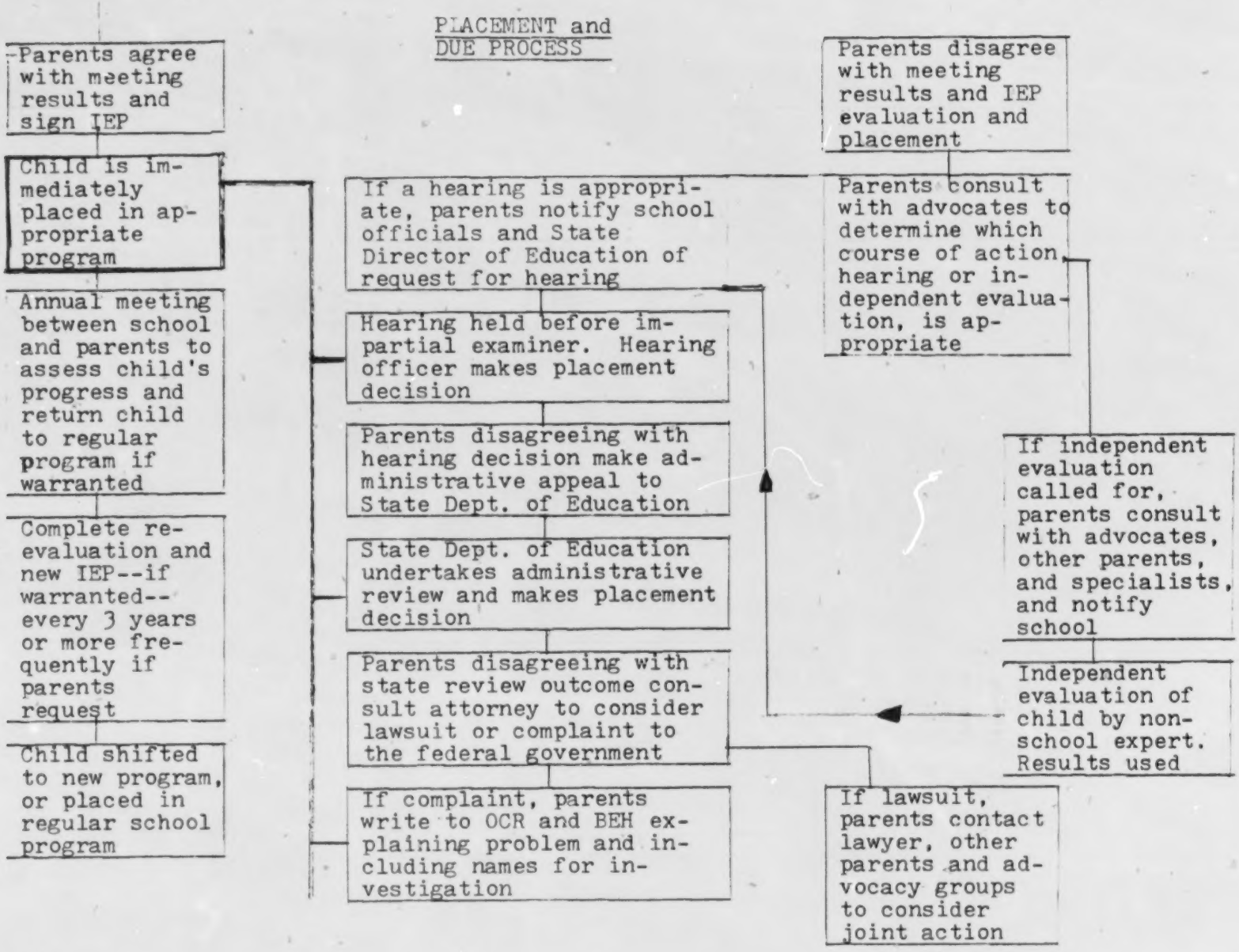
At the New York City hearing for comment on the New York State Plan required by Public Law 94-142, Louis Grumet (Assistant Commissioner for Education of Children with Handicapping Conditions) addressed himself to the problems of reaching parents in the urban areas.

A budget line to pay the salary of the Coordinator in the Reach Out to Parents Office of the school is required to begin the operation of this pilot project.

Given the determination of the cooperating school, the Implementation Plan can begin immediately.


IDENTIFICATION and EVALUATION
Child identified by parents as having possible special education needs
Child remains in regular school program or is temporarily placed in alternative program with parents' consent
Parents ask school to evaluate child
School asks parents' permission for evaluation
Parents consent to evaluation request
Parents refuse request for evaluation
School schedules evaluation
School follows state law to override parents or follows due process procedures
Parents consult with advocates and others concerning evaluation
Comprehensive, multidisciplinary evaluation conducted of child's needs with participation of school, parents, and professionals
Within 30 days, school notifies parent of meeting to discuss evaluation and develop IEP
Parents consult advocates, specialists, review records, etc., in preparation for meetings
IEP development meetings are held, attended by parents, school officials, and advocates
PARENTS AGREE
PARENTS DISAGREE

EVALUATION, PLACEMENT AND DUE PROCESS UNDER PL 94-142 AND SECTION 504


PLACEMENT and DUE PROCESS
Parents agree with meeting results and sign IEP
Child is immediately placed in appropriate program
Annual meeting between school and parents to assess child's progress and return child to regular program if warranted
Complete re-evaluation and new IEP--if warranted--every 3 years or more frequently if parents request
Child shifted to new program, or placed in regular school program
If a hearing is appropriate, parents notify school officials and State Director of Education of request for hearing
Hearing held before impartial examiner. Hearing officer makes placement decision
Parents disagreeing with hearing decision make administrative appeal to State Dept. of Education
State Dept. of Education undertakes administrative review and makes placement decision
Parents disagreeing with state review outcome consult attorney to consider lawsuit or complaint to the federal government
If complaint, parents write to OCR and BEH explaining problem and including names for investigation
Parents disagree with meeting results and IEP evaluation and placement
Parents consult with advocates to determine which course of action, hearing or independent evaluation, is appropriate
If independent evaluation called for, parents consult with advocates, other parents, and specialists, and notify school
Independent evaluation of child by non-school expert. Results used
If lawsuit, parents contact lawyer, other parents and advocacy groups to consider joint action

EVALUATION, PLACEMENT AND DUE PROCESS UNDER PL 94-142 AND SECTION 504

APPENDIX B

GLOSSARY

The following terms include those in most common general use throughout the United States:

EMR .. Educable mentally retarded

EMH .. Educable mentally handicapped

TMR .. Trainable mentally retarded

TMH .. Trainable mentally handicapped

ED .. Emotionally disturbed

EH .. Emotionally handicapped

LD .. Learning disabled; learning disabilities

PH .. Physically handicapped

LH .. Learning handicapped

CH .. Communicatively handicapped

SH .. Severely handicapped

SLD .. Specific learning disabilities

BD .. Behaviorally disordered; behavior disorders

DD .. Developmentally disabled

HI .. Hearing impaired

VI .. Visually impaired

MI .. Multiple-handicapped, or multihandicapped

OI .. Orthopedically impaired

Developmental disability
- a disability that is attributable to mental retardation, cerebral palsy, epilepsy, or autism, or any other similar impairment which originates before age 18, is expected to continue indefinitely, and is a substantial handicap to the person's ability to function normally in society. (as defined by Development Disabilities Technical Assistance System, Chapel Hill, North Carolina, 1978)

Multiple-handicapped
- concommitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.), the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blind children.

Orthopedically impaired*
- a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g. clubfoot, absence of some member, etc.), impairments caused by disease (e.g. poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g. cerebral palsy, amputations, and fractures or burns which cause contractures).

Specific learning disability*
- a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunctions, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing or motor handicaps, or mental retardation, or of environmental, cultural, or economic disadvantage.

Mentally retarded*
- significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

*As defined in HEW Rules and Regulations for Implementation of Part B of the Education for All Handicapped Children Act (P.L. 94-142).

BOARD OF EDUCATION OF THE CITY OF NEW YORK
110 Livingston Street, Brooklyn, N.Y. 11201
DIVISION OF SPECIAL EDUCATION AND
PUPIL PERSONNEL SERVICES

APPENDIX C

54

INDIVIDUALIZED EDUCATION PROGRAM

Check one: Initial I. E.P. ☐ Revised I.E.P. ☐

I. D. # _____ Date _____

I. Pupil's Name _____ (LAST) _____ (FIRST) Sex ____ D.O.B. _____

Pupil's Address _____ (STREET) _____ (CITY) _____ (STATE) _____ (ZIP CODE)

Telephone _____ Home District _____ Current Placement _____

C.O.E.

II. PARTICIPANTS IN COE PLANNING CONFERENCE

Name	Relationship/ Service	Signature
1.		
2.		
3.		
4.		
5.		

TO BE COMPLETED BY EVALUATION UNIT

III. PLANNING DATA:

A. Special alerts _____

B. Learning Mode _____

C. Skill Areas

Skill Areas	Present Level Age/Gr.	Present Level Reg. Cl.	Comments
1. Academics			
a. Language: Receptive / Expressive			
b. Reading			
c. Math			
d. Subject areas (Special Curr.)			
2. Psychomotor Skills: Gross / Fine			
3. Social/ Emotional Devel.			
4. Activities of Daily Living			
5. Career/ Vocational Skills			
6. Speech Skills			
7. Health Education			
8. Physical Education			

D. LONG-TERM (annual) GOALS

AFTER COMPLETING THIS SIDE REMOVE CARBON BEFORE WRITING ON OTHER SIDE

PARENT COPY

C.S.E.

IV. PLACEMENT RECOMMENDATION: Bureau Program _____ School _____ C.S. District _____
Anticipated Commencement of Service Level _____ Grade _____

V. RELATED SERVICES

A. Services	Bureau Prog. Agency	Source	Status
1. Medical			
2. Mental Health/counseling			
3. Educational			
4. Transportation			
5. Speech and Hearing			
6. Attendance			
7. Recreation			
8. Other			
B. Special instructional media/materials			

VI. REGULAR CLASS PROGRAMMING
Present Long- term (annual) Goal

EVALUATION

TO BE COMPLETED BY CLASSROOM TEACHER

VII. SHORT-TERM INSTRUCTIONAL OBJECTIVES

Short-term Objectives	Mastery Level	Method of Evaluation	Date of Mastery
1. Academics			
Language (oral, written)			
Reading			
Math			
Other Subject Areas			
2. Psychomotor Skills			
3. Social/Emotional Devel.			
4. Activities of Daily Living			
5. Career/Vocational Skills			
6. Speech Skills			
7. Health Education			
8. Physical Education			

VIII. PERSONS IMPLEMENTING I.E.P. Relationship/Service

1.
2.
3.
4.
5.
6.

IX. ADDITIONAL COMMENTS: (Parents, Teachers, Other) Signature

X. COMMITTEE ON THE HANDICAPPED ANNUAL REVIEW (Comments)

CSH Designee

PLEASE FORWARD A COPY OF THE COMPLETED IEP TO THE DISTRICT COMMITTEE ON THE HANDICAPPED LOCATED AT:

PARENT COPY

BOARD OF EDUCATION OF THE CITY OF NEW YORK
DIVISION OF SPECIAL EDUCATION AND
PUPIL PERSONNEL SERVICES
INDIVIDUALIZED EDUCATION PROGRAM
SHORT-TERM INSTRUCTIONAL OBJECTIVES--UPDATE

Pupil's Name _____ Date _____

Bureau/Program/School _____ Initial IEP Dated _____

Participants in update _____

SHORT-TERM OBJECTIVES	MASTERY LEVEL	METHOD OF EVALUATION	DATE OF MASTERY
1. Academics Language (oral, written)			
Reading			
Math			
Other Subject Areas			
2. Psychomotor Skills			
3. Social/Emotional Development			
4. Activities of Daily Living			
5. Career/Vocational Skills			
6. Speech Skills			
7. Health Education			
8. Physical Education			

PARENT COPY

APPENDIX D

Re: P.L. 94-142 and Sec. 504
QUESTIONS TO BE ASKED OF REPRESENTATIVE OF GOVERNMENT

Date
Name of Interviewee
Name of Organization
Location

Statement

P.L. 94-142 mandates to the State the responsibility for the education of every handicapped child in "the least restrictive environment," and within the perimeters of an individual education program (IEP). The IEP is to be prepared and updated periodically with the participation and consent of the parent or guardian. While P.L. 94-142 participation by the State is voluntary, with financial assistance, the mandates of Section 504 are not.

1. What is your overall function in this organization?
2. What is your background in the education of handicapped people?
3. What responsibilities do you have with respect to P.L. 94-142/Sec. 504?
4. What opposition or difficulties have you encountered from the various agencies you have impacted on?
5. What cooperation and assistance have you received from proponents?
6. Do you think additional legislative changes will be required to carry out the purposes expressed in the original legislation?
7. What is your interpretation of "least restrictive environment"?
8. How much awareness is there that the least educable child must now be educated?
9. Have you found any significant change in the attitudinal barriers that have existed?

This basic questionnaire was adjusted for interviews with representatives of:

- Local education agency
- Nationwide parents' advocacy organization
- Parochial schools
- State education agency
- Teacher training facility
- Teachers' unions
- Classroom teachers
- School administration personnel

The University of the State of New York
New York State Education Department
Division of Development Support Services
Bureau for Special Program Review
Albany, New York 12234

SED Use Only	
Project #	
Region #	
Size #	

APPENDIX E

Authorization for Submission of Abstract for Competitive Grant Proposal Under EHA VI-B (FY 1979)

PILOT PROJECT TO REACH OUT TO PARENTS OF CHILDREN WITH HANDICAPPING CONDITIONS IN URBAN SECONDARY SCHOOLS

SUBMITTED BY NEW YORK CITY BOARD OF EDUCATION - HIGH SCHOOL DIVISION
NATHAN QUINONES, EXECUTIVE DIRECTOR
110 Livingston Street, Brooklyn, N. Y.11201

Name and Telephone No. Contact Person ARLENE PEDONE - Tel. 596-5344

Original Signature of Chief School Officer Nathan Quinones

Nathan Quinones

Project Priority Area

- ☐ Early Childhood Education
- ☐ Training
- ☐ Statewide Data Collection
- ☒ Innovative/Model Program

Directions for Completing and Submitting Abstracts:

1. Abstracts are to be submitted to the Bureau for Special Program Review in accordance with the outline on the reverse side on or before October 2, 1978.
2. Abstracts should be limited to no more than three pages. Abstracts of more than three pages will not be accepted.
3. The submitting local agency should not be identified in the body of the abstract.
4. The submission should include ten copies of the completed abstract and one copy of the above authorization with original signature of the Chief School Officer.
5. The Priority Area being addressed should be indicated on this cover sheet and on the abstract itself.

PROJECT TITLE: Pilot Project to Reach Out to Parents of Children With Handicapping Conditions in Urban Secondary Schools

PRIORITY AREA: Innovative/Model Program
- Support System for Placement in the Most Appropriate and Least Restrictive Settings
- Parent Advocacy/Child Rights
- Parent/School/Community Relations

1. This pilot project is designed:

A. TO ESTABLISH A "REACH OUT TO PARENTS OF CHILDREN WITH HANDICAPPING CONDITIONS OFFICE" IN AN ACADEMIC HIGH SCHOOL IN EACH OF NEW YORK CITY'S 5 BOROUGHS. WITHIN THE SCHOOL DISTRICT, THE OFFICE WILL ACTIVELY SEEK AND DEVELOP INTERACTION WITH PARENTS OF HANDICAPPED AND NON-HANDICAPPED CHILDREN AND COMMUNITY GROUPS.

B. TO REDUCE THE NUMBER OF CHILDREN WITH HANDICAPPING CONDITIONS, IN THE URBAN ACADEMIC HIGH SCHOOL SETTING, WHOSE EDUCATIONAL NEEDS ARE NOW BEING UNDERSERVED BECAUSE THEIR PARENTS/GUARDIANS WILL NOT CONSENT TO, OR PARTICIPATE IN, THE PROCEDURES REQUIRED BY FEDERAL AND STATE LAW.

C. TO PROVIDE A LESS STRUCTURED MEANS OF CONTROL BETWEEN ADHERENCE TO RULES AND PROCEDURES AND INDIVIDUAL DETERMINATIONS AND ACTIONS FOR CHILDREN WITH HANDICAPPING CONDITIONS IN SECONDARY SCHOOLS.

There is little protection for the child's right to the appropriate education he or she may require if the parent/guardian does not consent. Many underserved children have a history of identification of their special needs. Efforts to reach the parents have a history of no success.

In New York City, parents have shown reluctance to participate for some of the following reasons:
-Lack of understanding of the benefits, rights and safeguards for their children under the new laws;
-Alienation because of personal fear and hostility to schools and authority;
-Language and communication barriers;
-Desire to protect their child's status as "normal";
-Feelings of helplessness and misunderstanding about their child's handicapping condition;
-Illegal aliens;
-A "let the school do it" attitude.

NOTE: This project does not replicate the parent training of SEIMC in that it is a high school based, individual, group, and community effort to assure that an appropriate education in the least restrictive environment is available to children with handicapping conditions. The use of SEIMC's resources is anticipated.

2. This project improves the educational environment of handicapped children by:

A. The Reach Out to Parents Office will establish communication and interaction with:
-Parents of children with handicapping conditions already placed in the high school and feeder schools;
-The general Parents' Association of the high school and feeder schools;
-Local Community organizations;
-Parents' groups involved in specific disabilities;
-The adult community of persons with disabilities;
-Others.

Thus a support network will be forged to provide the encouragement many parents of children with handicapping conditions require in order to participate on their behalf. (e.g. When the regular school efforts to reach the parent have failed, parent-to-parent assistance will be provided.)

B. On site, the office will assist in resolving problems that exist between the school and parents of children with handicapping conditions.

C. The good faith and desire for successful implementation of the new laws by the school will be enhanced by the existence of this office.

D. Parents having a school-based resource where they can acknowledge anxieties about their child's handicapping condition, at the same time participating on his/her behalf, will relate more effectively to the schooling process.

E. Parents of children who have not been identified as having handicapping conditions, but whose disability is suspected, will more readily consent to evaluation to assure that the child receives an appropriate education.

3. This project supports the placement of handicapped children in the most appropriate and least restrictive environment:

STAFFING PATTERN: 1 Project Coordinator - Board of Education base (100% time)

Activities - Supervise 5 field offices; conduct staff meetings with facilitators to exchange information; resolve problems unable to be met at site; assist in liaison with City-wide adult handicapped groups, parents groups; City-wide coordinated activities; keep facilitators up-to-date concerning new regulations and decisions; evaluate, with facilitators, progress and changes to be adapted; examine and evaluate feedback from districts covered--including parents, school personnel, local community, handicapped community; keep records; disseminate information concerning project; relate to other areas that have or would like to install a similar project. Report to NYC Bd. of Education .

5 Facilitators - 1 at each project site (100% time). Establish liaison with community (as described #2A, above); conduct conferences and hold meetings--small and district-wide--to explain and clarify rights and responsibilities of handicapped children and parents under the new laws, as well as provide understanding of the educational needs and potential opportunities that exist for children with handicapping conditions - use input of adult handicapped community (CONSCIOUSNESS RAISING); With community people, set up: TASK FORCES to examine barriers in the community--architectural, attitudinal, transportation and recreation; STUDY GROUPS to understand new federal and state laws; examine the human rights struggle of rehabilitated handicapped people; examine sterotypes of handicapped people in arts and literature, as well as famous people who were handicapped; examine commonality between handicapped and non-handicapped children and adults; INTEGRATED ACTIVITIES for handicapped and non-handicapped students to share; sponsor VOCATIONAL and CAREER CONFERENCES FOR HANDICAPPED CHILDREN. Assist in individual problems of handicapped children and their parents and the school. Evaluate and compare information with other facilitators. Disseminate information concerning changes in regulations to school, students, parents and community, as well as local projects information; keep records. Report to Project Coordinator.

Support: 3 steno/typists, 2 bi-lingual steno/typists. (100% time)

Other: Special education consultants - as required.
Interpreter for deaf people - as required.

(The NYC Mayor's Office for the Handicapped has assured technical assistance, speakers, contact with the handicapped community and other cooperation. Local community organizations, such as the Community Service Society Direction Service on Manhattan's West Side, have expressed desire to cooperate. SEIMC resources and HEW funded advocacy programs for handicapped people and a nation-wide advocacy program for parents of handicapped children can supply assistance that will also be utilized.)

MATERIALS: 1 TTY, 1 braillewriter - at Project Coordinator's office only; 6 typewriters; 6 telephones and 6 extensions; 13 file cabinets (4 drawer); stationery and office supplies; books and periodicals; rental of Xerox (6 locations); printing expenses; travel expenses; petty cash.

4. This project will have a positive impact on the statewide delivery of special education and/or related services to handicapped children:

   A. The need for parental participation exists throughout the state, especially in urban areas. This model will be easily replicated, with a minimum of technical assistance.

   B. The evaluation will be statistically demonstrable by the number of community participants--including parents, students and staff--in the community-based projects; by the lesser number of children whose parents still do not consent to or participate in the educational process, as Federal and State Laws require; and by the number of problems resolved with the assistance of the less formal structure.

   C. The program is cost efficient in that it uses a minimum number of personnel and maximizes the assistance and materials available without cost from MOH, HEW, SEIMC, etc. Community volunteers and handicapped adult volunteers, and others, provide assistance in projects--at the same time breaking through attitudinal barriers.

5. Summary:

For the schools to effectively integrate handicapped children with non-handicapped children, community understanding, acceptance and participation in breaking down traditional attitudinal barriers which affect all is a critical element. A cooperative community effort will assist parents to act on behalf of their children, as the laws require, and all people--including educators--to react more comfortably in the presence of handicapping conditions. To achieve this is the long range scope of the project. To initiate this thrust, a "Reach Out to Parents of Children with Handicapping Conditions Office" will be based in one academic high school in each of New York City's five boroughs. It must be recognized that patient persistence is mandatory if the revolutionary aims of the new landmark legislation on behalf of handicapped people are to be fulfilled. Therefore, this project will require the full 18 months. Hours will need to be flexible to conform to the needs of working parents and community members.

Total sum of money requested: $300,000 (18 months)

Number of individuals in the target population: 3000 high school students

Number of staff: 11

Cost per pupil: $100 for 18 months.

Evaluation design: Statistical determination of the short range goals:
(1) a reduced number of children whose parents will not participate;
(2) an increased number of problems resolved within the school itself;
(3) the number of activities supporting integration in which the community is involved.

The control, for each project site, will be a high school in a similar district without this project.

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